

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DePuy Mitek, Inc.)	
a Massachusetts Corporation)	
)	
Plaintiff.)	
)	
v.)	Civil No. 04-12457 PBS
)	
Arthrex, Inc.)	
a Delaware Corporation, and)	
)	
Pearsalls Ltd.)	
a Private Limited Company)	
of the United Kingdom)	
)	
Defendants.)	

Plaintiff DePuy Mitek's Motion *In Limine* (No. 4)
To Limit The Testimony Of Arthrex's Patent Law Expert, Mr. Witherspoon

Plaintiff, DePuy Mitek ("Mitek") moves the Court to exclude two portions of the proposed testimony of John Witherspoon, the proposed patent law expert of Defendants Arthrex, Inc. and Pearsalls, Ltd. Mitek moves to exclude Mr. Witherspoon's (1) legal conclusions that Arthrex does not infringe Mitek's patent; and (2) his recitation of the applicable patent laws. Mr. Witherspoon's testimony should be precluded under FED. R. EVID. 702 because he is not qualified to discuss technical infringement issues. Mr. Witherspoon's proposed testimony regarding the applicable laws of infringement should be excluded under FED. R. EVID. 402 and 403 because it invades the province of the Court and will confuse the jury.

Dated: July 13, 2007

DEPUY MITEK, INC.,
By its attorneys,

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